

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE DISTRICT OF SOUTH CAROLINA
ANDERSON/GREENWOOD DIVISION

STEFAN WITCHER,)	
)	
Plaintiff,)	Civil Action No. 8:06-1524-RBH
)	
v.)	
)	
THE KROGER COMPANY,)	
)	
Defendant.)	
_____)	

Pending before this court is Defendant's [Docket Entry #15] motion for summary judgment. This matter is before the court with the Report and Recommendation [Docket Entry #24] of United States Magistrate Judge Bruce H. Hendricks, which was filed on April 13, 2007.¹ The Magistrate Judge recommended that summary judgment be granted in favor of the Defendant. Objections to the Magistrate Judge's Report and Recommendation were due on or before April 30, 2007. Plaintiff has not filed any objections to the Magistrate Judge's Report and Recommendation. Defendant filed an Objection to the Report and Recommendation on April 30, 2007, [Docket Entry #26], arguing that the Defendant was entitled to summary judgment on the additional ground that plaintiff's breach of contract claim is barred by the doctrine of *res judicata*.

Standard of Review

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with this

¹In accordance with 28 U.S.C. § 636(b)(1)(B) Local Civil Rule 73.02(B)(2)(g), this matter was referred to the United States Magistrate Judge for pretrial handling.

court. *Matthews v. Weber*, 423 U.S. 261, 270 (1976). The court is charged with making a *de novo* determination of those portions of the report and recommendation to which specific objection is made, and the court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge, or recommit the matter to him with instructions. 28 U.S.C. § 636(b)(1).

The district court is obligated to conduct a *de novo* review of every portion of the Magistrate Judge's report to which objections have been filed. *Id.* However, the district court need not conduct a *de novo* review when a party makes only general and conclusory objections that do not direct the court to a specific error in the Magistrate Judge's proposed findings and recommendations. *Orpiano v. Johnson*, 687 F.2d 44, 47-48 (4th Cir. 1982).

Discussion

As noted above, the Plaintiff has failed to file any objections to the Magistrate Judge's Report and Recommendation. In the absence of objections to the Report and Recommendation, this court is not required to give any explanation for adopting the recommendation. *Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983). After a thorough review of the Report and Recommendation and the record in this case, the court adopts the Magistrate Judge's Report and Recommendation and incorporates it herein by reference. Accordingly, summary judgment is granted in favor of the Defendant.

Defendant filed an objection to the Magistrate Judge's Report and Recommendation arguing that the Magistrate Judge should have given preclusive effect to the arbitration award. The Magistrate Judge declined to find that the arbitration award in this case had *res judicata* effect because she was unable to find any case law in the Fourth Circuit or District of South Carolina supporting that proposition. Defendant urges this court to adopt the position of other

circuits which have given *res judicata* effect to arbitration awards. *See e.g. Greenblatt v. Drexel Burnham, Lambert, Inc.*, 763 F.2d 1352, 1360 (11th Cir. 1985).

Because a finding that the arbitration award should be given preclusive or *res judicata* effect is not necessary to a finding that the Defendant is entitled to summary judgment in this case, the court declines to find that the doctrine of *res judicata* bars Plaintiff's claim.

Conclusion

For the reasons stated above and by the Magistrate Judge, the court overrules Defendant's Objection and adopts the Report and Recommendation of the Magistrate Judge. As such, Defendants [Docket Entry #15] motion for summary judgment is **GRANTED**. This case is hereby **DISMISSED with prejudice**.

IT IS SO ORDERED.

S/ R. Bryan Harwell
Honorable R. Bryan Harwell
United States District Judge

Florence, South Carolina
July 30, 2007